

Serial No. 10/730,804
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REMARKS

Claims 22-26 were presented for examination in the present application and remain pending upon entry of the instant request for reconsideration, which is respectfully requested.

Premature Final

Applicant reiterates the request to withdrawal of the finality of the Final Office Action. In the present application, Applicants acknowledge that the reference being applied and the statute under which that reference was applied were not changed by the Final Office Action.

However, the way in which the reference was applied was changed and such a change was not necessitated by Applicant's amendment or filing of an IDS. Rather, the change in the application of the Coutts reference was necessitated by the first Office Action's failure to properly communicate the basis of the rejection.

The rules provide that the reasons for any rejection will be stated in an Office Action. See 37 C.F.R. §1.104. Further and as set forth in the *Manual of Patent Examining Procedure* (MPEP), it is important to properly communicate the basis of a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply. See MPEP Section 706.02(j).

In the present application, the Final Office Action's change in the reason for the rejection removed Applicant's fair opportunity to reply. Further, changing what element is asserted to be the claimed "tab" goes to the very point of novelty that Applicant previously argued with respect to the Coutts reference (when element 50 was indicated as being the tab).

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Accordingly, it is respectfully submitted that the Final Office Action is premature since the basis of the rejection was not properly communicated, preventing Applicant a fair opportunity to reply. Applicant respectfully requests withdrawal of such finality, as well as entry and consideration of the instant request for reconsideration.

Rejection under 35 U.S.C. §102

Claim 22 was rejected under 35 U.S.C. §102 over U.S. Patent No. 2,832,612 to Coutts (Coutts).

Independent claim 22 recites, in part, that the locking member is "disposed around the outside of said housing between said pair of retaining rims so that said tab is normally biased through said opening into the second part (emphasis added)".

Applicants submit that the spring 43 in Coutts is not "disposed around the outside of said housing" so that pin 41 is "normally biased through" slot 40 into a second part as claimed.

Rather, Applicants submit that Coutts discloses that oval spring band 43 is normally biased over pin 41. Specifically, Coutts discloses that in order to separate the tubes 31, 33 the operator applies pressure to the spring band 43 at the points 48-48 to compress the spring along its major axis which causes the cam surface 50 to be raised above the pin 41. See col. 2, lines 20-60.

Thus, Coutts discloses that pin 41 remains stationary on inner tube 33, while the oval spring band 43 is normally biased to receive this stationary pin. Clearly, the spring 43 of Coutts is not "disposed around the outside of said housing between said pair of retaining rims so that said tab is normally biased through said opening" as recited by claim 22. Instead, the spring 43 of Coutts is disposed around the outside so that the spring normally biased over the pin 41.

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Further, the Office Action fails to assert what portion of Coutts is the "second part", namely the workpiece on which the claimed locking member works.

Independent claim 22 further recites that the locking member is "disposed around the outside of said housing between said pair of retaining rims"... "so that pressure on said button removes said tab from the second part (emphasis added)"

Again, the pin 41 of Coutts remains stationary it does not move. Clearly pressure on the points 48-48 does not remove pin 41 from the second part. Instead, the spring 43 of Coutts is disposed around the outside so that pressure on points 48-48 removes the spring from the tab.

Accordingly, claim 22 is not disclosed or suggested by Coutts. Claim 22 is therefore in condition for allowance. Reconsideration and withdrawal of the rejection to claim 22 are respectfully requested.

Conclusion

In view of the above, it is respectfully submitted that the present application is in condition for issuance. Such action is solicited.

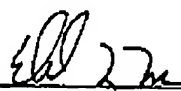
In the alternative, Applicant respectfully submits that the instant request for reconsideration places the present application in better condition for appeal. Accordingly, entry and consideration of the instant request for reconsideration, at least for the purposes of appeal, are respectfully requested.

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If for any reason the Examiner feels that consultation with Applicant's attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

Respectfully submitted,

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